

**Statement of U.S. Representative Edward J. Markey (D-MA),  
Ranking Democrat, House Subcommittee on Telecommunications and the Internet,  
regarding FCC Chairman Powell's response to Mr. Markey's July 2nd inquiry into  
Commission plans with respect to the WorldCom crisis:**

"The potential imminent bankruptcy of the nation's second largest long distance carrier, which also transmits the majority of email traffic within the United States, is a serious situation. It is incumbent upon the FCC to have in place operational monitoring and planning so that consumers are effectively protected if bankruptcy occurs.

"FCC Chairman Powell has given me assurances that the Commission is taking steps to better prepare for any potential WorldCom bankruptcy. Specifically, Chairman Powell indicates that the FCC will act, if necessary, to ensure that critical government functions are not disrupted by any WorldCom bankruptcy and that consumers will be accorded sufficient time to switch to other alternative carriers. I thank Chairman Powell for this commitment to current WorldCom customers.

"Chairman Powell also stipulates in his letter that two previous bankruptcies -- of Northpoint Communications and Excite@Home -- provided important experience for the Commission. In the case of Northpoint, which provided thousands of consumers with broadband access to the Internet, Chairman Powell writes that the company failed to provide the FCC with adequate notice consistent with the law and Commission rules. As a result of the company's failure to do so, the FCC was unprepared to intervene in timely fashion to protect consumers affected by shut-offs. Chairman Powell writes that the lessons learned from this episode have been incorporated into Commission contingency plans for dealing with troubled carriers in the future.

"In the case of Excite@Home, Chairman Powell writes that its service -- broadband access to the Internet -- was not covered by the scope of the provisions of the law that give the FCC authority to ensure continuity of service in the case of bankruptcies. This is a curious answer given the fact that Northpoint and Excite@Home offered consumers the same broadband telecommunications service, albeit over different wires.

"It is clear from Chairman Powell's response that he believes the Commission has no authority to step in to protect broadband telecommunications service customers of cable operators -- such as cable company Adelphia, for example.

"Unfortunately, the Powell Commission has proposals currently pending before it that would only exacerbate this problem. Rather than implementing the Telecommunications Act to include broadband telecommunications services offered by Adelphia and other cable operators within the purview of the law as intended, the Commission is considering adopting the opposite.

"Instead, the Commission is poised to take action that would re-define the broadband services provided by Northpoint, as well as the DSL services provided by the Bell companies and others, so that they would fall outside the scope of the law in the same way the Chairman Powell alleges Excite@Home did.

"This would have the effect of eliminating important consumer protections that the FCC can currently invoke during bankruptcy, leaving all broadband consumers in the future potentially vulnerable to the kind of abrupt, bankruptcy-induced shut-offs suffered by Northpoint and Excite@Home consumers last year.

"Such regulatory activism to redefine the words of Congress to those favored by industry incumbents

therefore is not only anti-competitive and anti-entrepreneurial public policy in my view. Chairman Powell's response also underscores the serious consequences that such proposals could have on consumers in the case of future bankruptcies. Given the fact that more and more Americans will communicate, reach public safety entities, and conduct important commerce over such broadband connections, I urge Chairman Powell and the other FCC Commissioners to rethink the wisdom, (and the legality,) of such proposals."

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